

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: StaceyAnn McFarlane-Ross	Team: Squad #1	CCRB Case #: 201810466	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/11/2018 2:30 AM	Location of Incident: [REDACTED]	Precinct: 25	18 Mo. SOL 6/11/2020	EO SOL 1/26/2021	
Date/Time CV Reported Mon, 12/17/2018 3:20 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/17/2018 3:20 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Cory Casimiro	01816	953734	PSA 5
2. SGT Sidd Yousafzai	03716	945123	PSA 5
3. An officer			PSA 5

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Andrena Dieubon	22552	965049	PSA 5
2. POM Ali Mushtaq	09468	960991	PSA 5
3. POM Moises Ramos	14571	956009	PSA 5

Officer(s)	Allegation	Investigator Recommendation
A.POM Cory Casimiro	Abuse: Police Officer Cory Casimiro threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Cory Casimiro	Force: Police Officer Cory Casimiro restricted § 87(2)(b) [REDACTED]'s breathing.	[REDACTED]
C. An officer	Force: An officer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D. An officer	Force: An officer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Cory Casimiro	Force: Police Officer Cory Casimiro used a Taser on § 87(2)(b) [REDACTED]	[REDACTED]
F.POM Cory Casimiro	Abuse: Police Officer Cory Casimiro forcibly removed § 87(2)(b) [REDACTED] to the hospital.	[REDACTED]
G.SGT Sidd Yousafzai	Abuse: Sergeant Sidd Yousafzai entered § 87(2)(b) [REDACTED] in Manhattan.	[REDACTED]

Case Summary

On December 17, 2018, § 87(2)(b) filed this complaint with the CCRB via telephone.

On December 11, 2018, at approximately 2:30 am, § 87(2)(b) called the police to her home at § 87(2)(b) in Manhattan to file a complaint against her ex-boyfriend. PO Cory Casimiro and PO Andrena Dieubon, of PSA5, responded to § 87(2)(b)'s call and she invited them inside of her apartment. After refusing § 87(2)(b)'s request to close the apartment door, PO Casimiro and PO Dieubon walked out of the apartment. § 87(2)(b) followed the officers into the hallway and asked them why they left when she called for help. PO Casimiro instructed § 87(2)(b) to get back inside of her apartment or she would be arrested (**Allegation A: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) refused and PO Casimiro pressed § 87(2)(b)'s forearm into her chest which restricted her breathing (**Allegation B: Force, § 87(2)(g)**). § 87(2)(b) kicked on her neighbor's door, § 87(2)(b) and § 87(2)(b) closed her eyes and felt the left side of her head banged against her neighbor's door and felt a punch to her chest (**Allegations C and D: Force, § 87(2)(g)**). § 87(2)(b) sustained bruises to her chest and under her left eye.

PO Casimiro deployed his Taser, striking § 87(2)(b) in the knee (**Allegation E: Force, § 87(2)(g)**). Additional officers responded to the location and § 87(2)(b) was removed to the hospital (**Allegation F: Abuse of Authority, § 87(2)(g)**). After § 87(2)(b) was transported to the hospital, Sgt. Sidd Yousafzai, also of PSA5, entered § 87(2)(b)'s apartment (**Allegation G: Abuse of Authority, § 87(2)(g)**).

There is no video footage associated with this case.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Cory Casimiro threatened to arrest

§ 87(2)(b)

Allegation (B) Force: Police Officer Cory Casimiro restricted § 87(2)(b)'s breathing.

§ 87(2)(b) (Board Review 01, 02) testified that after PO Casimiro and PO Dieubon walked out of her apartment she followed them into the hallway. She asked PO Casimiro and PO Dieubon why they walked away when she called for help. PO Casimiro instructed her to get back inside of her apartment or she would be arrested. § 87(2)(b) asked PO Casimiro why she would be arrested when she needed help. PO Casimiro did not tell § 87(2)(b) what she would be arrested for. As § 87(2)(b) spoke to PO Casimiro and PO Dieubon, she stood against the wall in the hallway, she had her arms folded across her chest. PO Casimiro walked over to § 87(2)(b) and placed both his open palms on her arms and pressed them into her chest and told her to calm down. § 87(2)(b) pushed PO Casimiro's hands off her arms and told him that she could not breathe. PO Casimiro grabbed § 87(2)(b)'s arms two more times and each time § 87(2)(b) pushed his hands off. § 87(2)(b) alleged that her breathing was restricted each time PO Casimiro had his hands on her. § 87(2)(b) explained that she kicked her neighbor's door, which was adjacent to her apartment, and called Eric Garner's name in an attempt to get her neighbor's attention. However, none of her neighbors opened their doors to help.

§ 87(2)(b) (Board Review 04) stated that she was awakened by a loud banging on her apartment door by § 87(2)(b) asking to be let inside because the police were going to kill her. § 87(2)(b) did not let § 87(2)(b) inside of her apartment because she appeared to be unstable. She heard § 87(2)(b) tell the officers that she would call the Black Panthers, called Eric Garner's name and stated, "This is police brutality" and "I'll fuck you up." At some point she observed PO Casimiro use a hand to hold § 87(2)(b) against the wall after "tussling" with § 87(2)(b) complained that she could not breathe after she was tased. § 87(2)(b) did not mention hearing a threat of arrest.

§ 87(2)(b)'s medical record (See privileged documents) noted she had a physical altercation with the NYPD and states pain in her chest with a contusion.

PO Casimiro (Board Review 05) testified when he and PO Dieubon arrived at the location § 87(2)(b) waved to them to enter her apartment. Once inside of the apartment, PO Casimiro partially closed § 87(2)(b)'s door. § 87(2)(b) asked him to fully close the door, but PO Casimiro explained to § 87(2)(b) that he could not close the door for their safety. § 87(2)(b) then became angry. PO Casimiro asked § 87(2)(b) several times what the emergency was and she eventually responded, "I have information to save the children", but provided no additional information and continued to insist they close the door. PO Casimiro saw nothing out of order and observed no signs of visible distress so told § 87(2)(b) that she should call 911 if there was an emergency and walked out of the apartment with PO Dieubon. § 87(2)(b) followed them into the hallway, screamed and banged on the wall and on her neighbor's door. § 87(2)(b)'s screams did not make sense. He did not recall instructing § 87(2)(b) to go back into her apartment and he did not remember threatening to arrest her. He explained that § 87(2)(b) could have possibly been arrested for a noise complaint. § 87(2)(b) continued to hit the wall with her hand and PO Casimiro grabbed her wrist so she would stop. § 87(2)(b) withdrew her hand from PO Casimiro and swung her arms at him. PO Casimiro held § 87(2)(b)'s shoulders and pushed her against the wall and instructed her to calm down. § 87(2)(b)'s arms were free and she reached across her chest attempting to open her bathrobe. PO Casimiro did not press down on § 87(2)(b)'s arms as they were across her body or apply pressure to her chest. He did not hear § 87(2)(b) complain that she could not breathe, nor did he hear her call out Eric Garner's name. § 87(2)(b) threatened to kick him in his genitals and attempted to kick him, but missed.

PO Dieubon's (Board Review 06) testimony was consistent with PO Casimiro with the following additions. PO Casimiro instructed § 87(2)(b) approximately 10 times to calm down, but she did not comply. PO Dieubon did not remember hearing PO Casimiro threaten to arrest § 87(2)(b). She did not see PO Casimiro press down on § 87(2)(b)'s arms into her chest. PO Dieubon did not hear § 87(2)(b) complain of any issues with her breathing.

§ 87(2)(g)
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Allegation (C) Force: An officer used physical force against § 87(2)(b)

Allegation (D) Force: An officer used physical force against § 87(2)(b)

Allegation (E) Force: Police Officer Cory Casimiro used a Taser on § 87(2)(b)

§ 87(2)(b) testified that after she began kicking her neighbor's door, PO Dieubon attempted to get a hold of her and accidentally scratched her under the left eye. In response to PO Dieubon's scratch, § 87(2)(b) swung her arm at PO Dieubon and scratched her. At that point, § 87(2)(b) closed her eyes and did not see what happened next. She felt her head banged against her neighbor's door and felt a punch to her chest. § 87(2)(b) did not see who banged her head or punched her. § 87(2)(b) sustained bruises to her chest and under her left eye. After that, § 87(2)(b) explained that she sat on the floor with her hands above her and stated, "I surrender." PO Casimiro then stated, "I got the taser. Should I tase her?" Within seconds, § 87(2)(b) felt a shock and observed a barb from the taser in her left knee. She remained seated on the floor until eight additional officers responded to the location.

§ 87(2)(b) stated that she looked through her peephole and observed § 87(2)(b) tell the officers that she would fuck them up and then moved towards them. PO Casimiro held § 87(2)(b) against the wall and told her, "Don't resist." It appeared that § 87(2)(b) was overpowering PO Casimiro and so § 87(2)(b) instructed her daughter, § 87(2)(b) to call 911 because she feared for the officers' safety. § 87(2)(b) heard both PO Casimiro and PO Dieubon instruct § 87(2)(b) to calm down multiple times before she was tased. She did not see when or who tased § 87(2)(b). After § 87(2)(b) was tased, § 87(2)(b) heard § 87(2)(b) complain that she could not breathe and called out Eric Garner's name. As additional officers responded to the location, § 87(2)(b) heard PO Dieubon complain that she was scratched and PO Casimiro complained of knee pain. § 87(2)(b) did not describe any officer hit § 87(2)(b)'s head into the wall or punch her.

Per § 87(2)(b)'s medical records, a taser was used because she was behaving aggressively.

PO Casimiro testified that after § 87(2)(b) attempted to kick him in the genitals, she instead kicked him in his knee. At that point, PO Casimiro went over the radio and called a 10-85. As PO Casimiro was on the radio, PO Dieubon held § 87(2)(b)'s hand. § 87(2)(b) grabbed PO Dieubon's shoulder with her free hand and slammed her against the wall. § 87(2)(b) held on to PO Dieubon and PO Dieubon tried to push her off. PO Casimiro grabbed § 87(2)(b)'s shoulder and pushed her against the wall and told her to calm down. He released § 87(2)(b)'s shoulders and called a 10-85 a second time. During that time, § 87(2)(b) grabbed PO Dieubon a second time and slammed her against the wall. After that, PO Casimiro pushed PO Dieubon out of the way, pushed § 87(2)(b) against the wall and deployed his Taser. § 87(2)(b) was struck in the knee and she fell to the floor. He did not bang her head against the wall and he did not punch § 87(2)(b). He observed scratches on PO Dieubon's face. A few minutes later, Sgt. Yousafzai and PO Ali Mushtaq responded to the location. PO Mushtaq handcuffed and assisted § 87(2)(b) from the floor. PO Casimiro and PO Dieubon were transported to Mount Sinai for their injuries.

PO Dieubon stated that she and PO Casimiro struggled to handcuff § 87(2)(b) continually pulled her hands away from the officers, pushed PO Dieubon into the wall twice and scratched her face. Neither PO Dieubon nor PO Casimiro banged § 87(2)(b)'s head into the door or punched her. When § 87(2)(b) was brought downstairs to the ambulance PO Dieubon noticed teeth marks on her wrist.

According to the NYPD Patrol Guide 221-01, officers are to use reasonable force as is necessary to gain control of a subject (Board Review 08).

§ 87(2)(g)

Per NYPD Patrol Guide 221-08, a taser may be used to subdue aggressive suspects. A taser should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons present (Board Review 09).

§ 87(2)(g)

Allegation (F) Abuse of Authority: Police Officer Cory Casimiro forcibly removed § 87(2)(b) to the hospital.

§ 87(2)(b) testified that she was escorted downstairs to the ambulance where she was transported to § 87(2)(b). She stayed nine days and was diagnosed as bipolar.

§ 87(2)(b)'s medical record (See privileged documents) noted her diagnosis as an unspecified mood disorder, bipolar disorder, strange and inexplicable behavior. § 87(2)(b) complained that she had a physical altercation with the NYPD. § 87(2)(b) was brought to the emergency department due to strange and bizarre behavior.

PO Casimiro testified that at the moment § 87(2)(b) began screaming and hitting the wall, he decided that § 87(2)(b) had to be taken to the hospital and informed PO Dieubon of his decision. He instructed § 87(2)(b) to stop hitting the wall and to leave with him and PO Dieubon, but she did not comply. By the time the additional officers responded, PO Casimiro did not know who escorted § 87(2)(b) to the ambulance as he remained upstairs and waited by her apartment.

Per the NYPD Patrol Guide 221-13 (Board Review 11), officers are to safeguard a mentally ill or emotionally disturbed person who does not voluntarily seek medical assistance or to take into protective custody any person who is conducting himself or herself in a manner likely to result in a serious injury to themselves or others.

§ 87(2)(g)

Allegation (G) Abuse of Authority: Sergeant Sidd Yousafzai entered § 87(2)(b) in Manhattan.

§ 87(2)(b) explained that she asked an officer who she described as a Hispanic male, with black hair, approximately 5'11" tall, athletic build, approximately 190 pounds, early 30s, with a mustache in uniform, to protect her children and her dog who were still in the apartment as she was being escorted to the ambulance. An officer asked § 87(2)(b) if they could enter her apartment and she responded, "No".

§ 87(2)(b) stated that she heard § 87(2)(b) say, "My kids are in the house."

PO Casimiro testified that as he stood by § 87(2)(b)'s apartment, Sgt. Yousafzai instructed him to enter § 87(2)(b)'s apartment. PO Casimiro found § 87(2)(b)'s children who were asleep and her dog. ESU removed § 87(2)(b)'s dog to a shelter and he did not know who took the children.

Sgt. Yousafzai (Board Review 10) testified that upon arriving at the location, he observed § 87(2)(b) sitting on the floor. PO Casimiro informed him that there were children and a dog inside of the apartment without anyone to watch them. Sgt. Yousafzai and three additional officers entered § 87(2)(b)'s apartment and found her two sleeping children and her dog in the same bedroom.

Per People v. Molnar, 98 N.Y.2d 328 (2002), a warrantless entry by an officer may be lawful under the emergency exception to the Fourth Amendment (Board Review 12). As per Patrol Guide Procedure 215-01, officers are required to find care for children when a parent/guardian is unable to do so due to hospitalization (Board Review 15).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to two of CCRB complaints and has been named as a victim in 11 allegations (Board Review 14):

- § 87(2)(b)
- Sgt. Sidd Yousafzai has been a member of service for 11 years and has been a subject in five CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)
- PO Cory Casimiro has been a member of service for six years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of June 24, 2019, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards to this complaint (Board Review 13).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 07).

Squad No.: 1

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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